IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LDG.) NO. 577 OF 2006

Akar Sra Co-op.Hsg.Society Ltd.& Anr. ..Petitioners.

Vs.

Mumbai Building Repairs and Reconstruction Board & Ors. (MHADA UNIT) ..Respondents.

Mr. Shyam Mehta i/by Divyakant Mehta & Associates for the Petitioners.

Mr. R.M. Sawant, Govt. Pleader with Mr. G.W. Mattos, AGP for Respondents Nos. 1 to 3.

Mr. Kiran Kamble for Respondent No.4.

CORAM : F.I. REBELLO AND ANOOP V. MOHTA,JJ.

DATED : 08TH MARCH, 2006.

P.C.:

1. Rule. Heard forthwith.

2. The petitioner No.1 is a Society which is formed under SRA Scheme. It appears that the scheme midway has been cancelled. The developer - Respondent No.4, has again applied for sanction of the scheme to Respondent No.3. As Respondent No.1 was informed by respondent No.3 that SRA Scheme has been cancelled, the respondent

No.1 has issued directions to respondent No.4 that the premises allotted to respondent No.4 should be vacated. 36 members of the petitioner No.1 are residing in those premises, though the respondent No.4 had been allotted 199 premises. We are concerned only with 36 premises presently occupied. In so far as other premises are concerned, it will be open to respondent No.1, if they are not in possession, to take possession of their other premises.

3. In so far as the 36 members who are presently occupying the premises, purely as a humanitarian gesture and considering that the monsoon season will commence after a few months and to enable them to make alternate arrangement, we permit them to occupy the premises upto 30th September, 2006. It was pointed out by the learned counsel of the respondent No.1 that they required the premises for housing those who are covered under their schemes. This court has to balance the equities of the matter. Those 36 persons are some of the poorest and it is in that circumstance, we have issued this direction and in these peculiar facts, to allow them to continue upto 30th September, 2006 only.

4. Petitioner No.1, therefore, through their Chief Promoter, to file an undertaking in this court within a

period of three weeks from today that on the expiry of period granted to continue occupying the premises, that is upto 30th September, 2006, they will hand over vacant and peaceful possession of the 36 premises to respondent No.1, if in the meantime, no other arrangements have been entered into between respondent No.1, respondent 3 and or respondent No.4 or any other developer.

. If the undertaking is not filed by the Chief Promoter of the Petitioner No.1 Society, the relief granted today would stand vacated forthwith.

5. Only those 36 members of respondent No.1, who are today in the premises, identified in terms of list at Exh. 'N' to the petition, shall occupy the premises with their family members only and they shall not induct any third persons and on before 1st October, 2006 shall hand over peaceful possession to respondent No.1. If on that day, possession is not handed over to respondent No.1, it will be open to respondent No.1 to take forcible possession from the occupants of the said premises unless any alternate arrangement is arrived at, as set out earlier.

. The dues for the premises occupied by the 36

members, will be adjusted from the deposit maintained by respondent No.4 with respondent No.1.

6. As respondent No.4 has applied to SRA, for continuing the SRA Scheme, the SRA to consider the same and dispose of it by not later than six weeks from today.

7. Rule made absolute accordingly with no order as to costs.

08.03.2006 (F.I.Rebello,J)

(Anoop V.Mohta, J)

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